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Washington, D.C. 20505

17 July 1978

Dear Abe,

I'm not one to take issue with individual editorials, yet The Times had one on 25 June concerning the Snepp case, "Why Censor Non-Secrets?", which raises a very substantial issue. Specifically, it gets to the heart of whether and how I'm going to be able to maintain the modicum of secrets which our intelligence agency must maintain if we are to be effective. I fully recognize that any right of pre-publication review has the potential for abuse. Yet there are existing safeguards against abuse and in addition I have difficulty finding a satisfactory alternative that is likely to keep our secrets.

One of my staff, after reading your editorial, wrote the following comments to me in a memorandum. I'd like to pass them along as grist for your mill. I genuinely am seeking an answer to this difficult problem.

"As I see it there is not much disposition to quarrel with the idea that the Government has a right if not a duty to protect its secrets against disclosure, and that it is legitimate to apply some sort of restraint to former CIA employees who undertake to write books. The reality that escapes the critics is that it is impossible to separate the secrets from the non-secrets without having pre-publication access to the book, unless one accepts the proposition that ex-employees can make the final judgments, in which case there are no real secrets because the employees can simply rationalize them out of existence. And it does no good to suggest, as The New York Times would apparently have it, that breach of contract suits are appropriate only when it can be shown that classified information in fact was disclosed. In the first place, this notion misapprehends the objective, which is to prevent the publication of secrets rather than to have the satisfaction of a legal remedy once they have been published. Secondly, a scheme requiring it to be shown that a book contains classified information would not afford much of a remedy at all, because the necessary proof would often cause more damage than the book itself. These considerations, plus the absence of any applicable or effective criminal sanctions, explain the need for the pre-publication review feature of Agency secrecy agreements. They also explain, and I believe justify, the decision to pursue Snepp. The central purpose of the suit was to vindicate our right of prior review. It was never contended, nor could it be, that our right

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of prior review carries with it a right to "censor" anything other than properly classified information, and even at that our judgments are subject to independent judicial scrutiny. Therefore, The New York Times editorial writers asked the wrong rhetorical question, or at least one that does not correspond to the issues actually involved in the Snepp case."

All the very best.

Yours,

STANSFIELD TURNER

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